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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,780	09/23/2004	Martin Kaspar	016906-0339	8499
22428	7590	12/13/2007		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER NALVEN, EMILY IRIS	
			ART UNIT 3744	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/508,780

Applicant(s)

KASPAR ET AL.

Examiner

Emily I. Nalven

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 24-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Receipt of remarks filed on September 17, 2007 is acknowledged.

### ***Claim Objections***

1. **Claims 25-32, 34-36 and 43-45** are objected to because of the following informalities:

**In regard to claims 25-32, 34-36 and 43-45**, the recitation "A condenser" (lines 1, respectively) should be changed to -- The condenser -- to further clarify the claim language. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 24-27, 30-39 and 42-45** are rejected under 35 U.S.C. 102(b) as being anticipated by Mittelstrass (US Patent No. 5,992,174).

**In regard to claim 24**, Mittelstrass teaches a condenser (1) (col 3 lines 14-16) having a tube block (see Fig. 2) comprised of tubes (20) and fins (20) (col 3 lines 14-16 and see Fig. 2, additionally the tubes and fins are connected and both referred to by reference number 20 although they can be seen as distinct elements in Fig. 2), a header (junction where inlet, outlet and tubes and ribs connect – see Fig. 2) arranged on each end of the tube block (see Fig. 2) and

communicating with the tubes (20), a collector (collector profile 1) which is connected to one of the collecting tubes (20) by means of at least one inflow (21) opening (col 3 lines 17-19) and at least one outflow (22) opening (col 3 lines 17-19) and is arranged in parallel with the coolant condenser tubes (20) (see Fig. 2). The threads (18,19) are circumferential sealing means as threads are inherently circular sealing the insert (5) system in place in the condenser (1).

Mittelstrass also teaches an insert (6) which is connected to a closure stopper (5) (col 3 lines 25-26) and has a filter (7) means is arranged (col 3 lines 32-35 and see Fig. 2), the insert (3) having a circumferential sealing means (18,19) (col 3 lines 27-28) which is arranged between the inflow opening (21) and the outflow opening (22) (see Fig. 2), and the closure stopper (5) being arranged in the region of the outflow opening (22). It is presumed that "in the region of" means that the closure stopper (5) is in the same coolant condenser system.

Mittelstrass also teaches that the filter means (7) is embodied as a separate insert (col 3 lines 38-39) and as a functional unit and is arranged in the region of the outflow opening (see Fig. 2). Mittelstrass teaches a cage member defining a generally hollow, unfilled space within it and openings on its lateral sides that are covered by a filter material (col 3 lines 48-55). The space and walls creating the space constitute the cage member. The insert (6) can function as a filter material around the space.

**In regard to claim 25**, Mittelstrass teaches the condenser (1) wherein the insert (6) is of pot-shaped design and has a bottom, a wall and an edge (see Fig. 2, Fig.3 , Fig. 4 and col 3 lines 36-40). Mittelstrass also teaches the wall having window-like breakthroughs which are covered by filter sieves and the sealing means which is embodied as a circumferential sealing lip being arranged at the edge (col 3 lines 36-40).

**In regard to claim 26**, Mittelstrass teaches the condenser (1) wherein the insert (6) is connected to the closure stopper (5) in a detachable fashion by means of a clip connection (col 3 lines 66-67 and col 4 lines 1-5).

**In regard to claim 27**, Mittelstrass teaches the condenser (1) wherein the insert (6) is embodied in one piece with the enclosure stopper (5). It is interpreted that "embodied" means incorporated. Therefore the insert (6) and enclosure stopper (5) are both incorporated into the same coolant condenser system as one unit.

**In regard to claim 31**, Mittelstrass teaches the condenser (1) wherein the outer surface of the pot-shaped wall forms with the inner wall of the collector in the region of the outflow opening (22) an annular chamber (col 3 lines 48-50).

**In regard to claim 32**, Mittelstrass teaches the condenser (1) wherein granular desiccant in a separate container is positioned above the insert (col 3 lines 44-46 where a granular dryer filling is provided as a desiccant). It is inherent that "a filling" (col 3 lines 45) must be placed in some sort of bag because if the filling were floating around without being placed into a bag storage unit it would float aimless in the coolant condenser and get stuck in the filter causing problems for

the entire system. Though the desiccant may be very tightly packed together, it is still not a solid piece and as such, there will be spaces between the particles, however small that can filter fluid.

**In regard to claim 33**, Mittelstrass teaches a condenser (1) (col 3 lines 14-16) comprising a tube block (see Fig. 2) comprised of tubes (20) and fins (20) (col 3 lines 14-16 and see Fig. 2, additionally the tubes and fins are connected and both referred to by reference number 20 although they can be seen as distinct elements in Fig. 2), a header (junction where inlet, outlet and tubes and ribs connect – see Fig. 2) arranged on each end of the tube block (see Fig. 2) and communicating with the tubes (20), a collector (collector profile 1) which is connected to one of the collecting tubes (20) by means of at least one inflow (21) opening (col 3 lines 17-19) and at least one outflow (22) opening (col 3 lines 17-19) and is arranged in parallel with the coolant condenser tubes (20) (see Fig. 2), the collector (collector profile 1) including a selectively removable closure stopper (5) at one end of the collector (collector profile 1) (see Fig. 2 and lines 20-24).

Mittelstrass also teaches an insert (6) embodied in a single-piece component (see Fig. 3) comprising the closure stopper (5) and a cage-like sleeve (see Fig. 3), wherein the insert (6) includes a circumferential sealing means (col 3 lines 36-37) which is arranged between the inflow opening (21) and the outflow opening (22) (see Fig. 2), and a drying and filter unit is arranged (col 3 lines 32-35) that comprises a lower compartment (below projection 15) (col 4 lines 43-45 and see

Fig. 2) in said cage-like sleeve (see Fig. 3) defining a generally hollow, unfilled space within it and openings on its lateral sides (see Fig. 1 – outer edges of system 1) that are covered by a first filter material (col 3 lines 32-36), said lower compartment (below projection 15) being arranged in the region of the outflow opening (22) (see Fig. 2) and comprises an upper compartment (above projection 15) in said cage-like sleeve containing a desiccant (see Fig. 2 and col 3 lines 32-40). It is presumed that “in the region of” means that the closure stopper (5) is in the same coolant condenser system.

**In regard to claim 34**, Mittelstrass teaches the condenser (1) wherein the upper compartment of the cage-like sleeve has window-like breakthroughs, which are covered by a second filter material (7) (col 3 lines 36-39).

**In regard to claim 35**, Mittelstrass teaches wherein the second filter material (7) has a coarser mesh than the first filter material (col 3 lines 32-36 and 44-47). It is interpreted that this granulated dryer filling structurally can trap particles and thus function as a filter, which is coarser than the first filter as the granulated bits are not evenly spaced or arranged.

**In regard to claim 36**, Mittelstrass teaches the condenser (1) wherein the closure stopper portion (5) of the insert (6) has a hollow indentation (since free end 26 can be insert into the closer stopper portion 5 - it is inherent that the closer stopper portion 5 have a hollow indentation for receiving the free end 26 - see Fig. 2 and col 4 lines 50-52) and at least one circumferential annular groove

containing an O ring that is positioned radially of said indentation (see Fig. 2 and col 3 lines 29-31).

**In regard to claim 33**, see the above rejection for claim 33.

**In regard to claim 38**, see the above rejection for claim 26.

**In regard to claim 39**, see the above rejection for claim 27.

**In regard to claim 42**, see the above rejection for claim 33.

**In regard to claim 43**, see the above rejection for claim 34.

**In regard to claim 44**, see the above rejection for claim 35.

**In regard to claim 45**, see the above rejection for claim 36.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 28-30 and 40-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mittelstrass (US Patent No. 5,992,174) in view of Stampfl et. al. US Patent No. (6,242,163 B1).

**In regard to claim 28**, Mittelstrass teaches the condenser with the insert and the closure stopper but doesn't explicitly teach that they are manufactured as an injection molded part. Stampfl et. al. teach that an injection mold is used to make plastic parts (col 7 lines 8-10). It would have been obvious to one of ordinary skill in the art to combine the coolant condenser insert and stopper as taught by



Mittelstrass are made from injection molded plastic parts as taught by Stampfl et. al. because using an injection mold one can have an ideal fit for the size and shape of the coolant condenser without losing refrigerant and compromising the efficiency of the system in addition to the fact that plastic is cheap and durable extending the life of the product. It should be noted that, where a product by process claim is rejected over a prior art product that appears to be identical, although produced by a different process, the burden is upon the applicants to come forward with evidence establishing an unobvious difference between the two, as is the case here. See *In re Marosi*, 218 USPQ 289 (Fed. Cir. 1983).

**In regard to claim 29**, Mittelstrass teaches the condenser but doesn't explicitly teach that the injection molded part is manufactured from plastic. Stampfl et. al. teach that an injection mold is used to make plastic parts (col 7 lines 8-10). It would have been obvious to one of ordinary skill in the art to combine the coolant condenser insert and stopper as taught by Mittelstrass are made from injection molded plastic parts as taught by Stampfl et. al. because using an injection mold one can have an ideal fit for the size and shape of the coolant condenser without losing refrigerant and compromising the efficiency of the system in addition to the fact that plastic is cheap and durable extending the life of the product.

**In regard to claim 30**, Mittelstrass teaches the condenser characterized in that the injection molded part is manufactured from an aluminum alloy. Stampfl et. al. teach that an injection mold is used to make metal parts (col 7 lines 8-10) wherein an aluminum alloy is metal based. It would have been obvious to one of

ordinary skill in the art to combine the coolant condenser insert and stopper as taught by Mittelstrass are made from injection molded metal parts as taught by Stampfl et. al. because using an injection mold one can have an ideal fit for the size and shape of the coolant condenser without losing refrigerant and compromising the efficiency of the system.

**In regard to claim 40**, see the above rejection for claim 28.

**In regard to claim 41**, see the rejection for claim 29.

### ***Response to Arguments***

3. Applicant's arguments filed on September 17, 2007 have been fully considered but they are not persuasive.

The attorney for the applicant makes no arguments on the merits of the claim rejections of claims 1-23.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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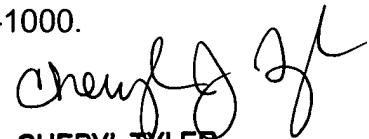
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Iris Nalven whose telephone number is 571-272-3045. The examiner can normally be reached on Monday - Thursday 8 AM - 5:30 PM and on alternate Fridays 8 AM – 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors Cheryl J. Tyler can be reached on 571-272-4834 and Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Emily Iris Nalven  
Art Unit 3744  
December 5, 2007

  
CHERYL TYLER  
SUPERVISORY PATENT EXAMINER